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VIA ELECTRONIC FILING

The Honorable Jocelyn G. Boyd
Chief Clerk and Executive Director
Public Service Commission of South Carolina
101 Executive Center Drive, Suite 100
Columbia, SC 29210

**Re: Public Service Commission of South Carolina – Administrative and
Procedural Matters
Docket No. 2005-83-A**

**Procedural Schedule for the Integrated Resource Plans (IRPs) Filed with the
Public Service Commission
Docket No. 2022-162-E**

Comments on Procedural Schedules for DEC's and DEP's 2023 IRPs

Dear Ms. Boyd:

Duke Energy Carolinas, LLC ("DEC") and Duke Energy Progress, LLC ("DEP") (together the "Companies") appreciate the opportunity to submit these joint comments regarding the Companies' 2023 Integrated Resource Plan ("IRP") procedural schedule following the forum held on November 15, 2022. The Companies appreciate yours and the Commission's consideration of the Companies' perspective on these important procedural matters to set a reasonable and appropriate procedural schedule for the upcoming 2023 IRP proceedings.

The Companies also acknowledge the Notice of Follow-Up Forum and New Staff Proposed Procedural Schedule issued by the Clerk's office on December 5, 2022. The Companies will participate in the Follow-Up Forum and will file comments regarding the New Staff Proposed Procedural Schedule on or before December 9, 2022.

2023 Comprehensive IRPs

Following the forum, the Companies remain convinced that the procedural schedule they proposed in the letter filed on November 3, 2022 in these dockets remains the most reasonable and fair to the parties. The Companies' proposed schedule hews closely to the schedule that worked

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well for the parties and the Commission in the Companies' most recent comprehensive IRP proceeding, and no party presented a compelling reason to deviate from that schedule. The one exception to that noted by the Companies was the need for more time between the filing of surrebuttal testimony and the start of the hearing, a need that is better accounted for in the Companies' proposed schedule.

The schedule proposed by the Companies in its November 3rd filing would give other parties 150 days, or 5 months, from the date the Companies file the 2023 IRPs to propound discovery and prepare testimony, while it would give DEC and DEP only 40 days to review other parties' direct testimony—which could include alternative portfolios or resource plans based on different assumptions—propound discovery, and prepare rebuttal testimony. Act 62 requires that the utility be given a reasonable opportunity to propound discovery and address alternatives raised by other parties.¹ Given the 20-day turnaround time for discovery under the Commission's regulations, the Companies believe that they need at least 40 days after other parties file direct testimony to propound discovery, receive a response, and ensure responsive information is appropriately addressed in the Companies' rebuttal testimony. The Companies' proposed schedule appropriately accounts for these requirements.

The Office of Regulatory Staff ("ORS") also proposed a schedule for the DEC and DEP 2023 IRP proceedings, and it stated that its schedule is intended to provide an "equal number of working days between each phase of a Company's comprehensive IRP proceeding."² To the Companies' knowledge, an equal number of working days between each phase of a proceeding—which even the ORS's proposal does not achieve—has never been a goal of the Commission or the Clerk's office in setting a procedural schedule and such a schedule would not be procedurally fair or appropriate. For example, the amount of time needed for the Companies to review other parties' direct testimony, prepare and propound discovery, and prepare rebuttal testimony is wholly different from the amount of time needed by other parties to prepare surrebuttal testimony, which is very limited in scope to new issues raised for the first time in the Companies' rebuttal testimony. A comparison of the ORS's proposed schedule to the Companies' proposal is as follows:

	DEC/DEP Proposal for 2023 IRP	Days Between	ORS Proposal for 2023 IRP	Days Between
IRP Filed	8/15/2023	-	8/15/2023	-
DEC/DEP Direct	10/24/2023	70	10/24/2023	70
Other Parties' Direct	1/12/2024	80 (150*)	1/16/2024	84 (154*)
DEC/DEP Rebuttal	2/21/2024	40	2/13/2024	28
Other Parties' Surrebuttal	3/4/2024	12	3/5/2024	21

¹ S.C. Code Ann. § 58-37-40(C)(1).

² ORS Letter at 2, Docket Nos. 2005-83-A & 2022-162-E (Nov. 4, 2022).

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Hearing	3/18/2024	14	3/18/2024	13
PSC Order	6/10/2024	84	6/10/2024	84

*number of days from date of IRP filing

Under the ORS’s schedule, while other parties will have many months to review the IRP—which is the foundation for the Companies’ direct testimony—before filing their direct testimony and any alternative plans, the Companies would have just 28 days to review all parties’ testimony, positions, and alternative plans other parties’ testimony, positions, and alternative plans for the first time, propound discovery, and prepare rebuttal testimony. Even if the Companies were able to issue comprehensive discovery to all parties *the day after receiving direct testimony*—which is not practically feasible—they would have just seven days (five business days) to analyze the responses and appropriately address the information in rebuttal testimony. For comparison, in the 2020 IRP proceeding, other parties filed more than 1,000 pages of direct testimony, and the Companies issued ten sets of discovery and received voluminous responses requiring intensive review of both technical studies and underlying data and inputs. Assuming a similar number of contested issues for the 2023 comprehensive IRP, it is simply not possible for the Companies to process that amount of information and incorporate it into testimony in a week.

The Companies are already at a procedural disadvantage under the Companies’ proposed schedule, where they would have just 40 days to prepare rebuttal testimony versus the 150 days other parties have to prepare direct testimony. To tighten that amount of time to anything less than 40 days would be inequitable and would arguably run afoul of Act 62’s mandate that the procedural schedule provide an opportunity to propound discovery and obtain evidence regarding “alternatives” to the IRP.³

Comprehensive IRP proceedings are 300-day proceedings. In a 300-day proceeding, there is no reason a utility’s ability to propound discovery on and understand other parties’ positions should be compromised. Instead, a 300-day proceeding should provide ample time to follow a reasonable schedule that permits parties to propound discovery and fully understand the basis of others’ positions—that is the fair, appropriate, and lawful approach contemplated in Act 62.⁴

Procedure For The Next IRP Updates

As related to the next IRP Updates, the Companies agree with the position articulated in ORS’s letter filed on November 4, 2022 that the filing dates for IRP Updates should remain flexible. Comprehensive IRP proceedings can stretch beyond the 300-day deadline in the event the Commission orders one or more modification(s) to the IRP, including beyond any preset deadline for filing the IRP Update. Further, the comprehensive IRP must be at a stopping point before it may be updated, and it would be practically impossible for the utility to prepare its IRP Update—which requires updated IRP modeling and analysis—while at the same time engaging in an ongoing comprehensive IRP proceeding. For these reasons, the filing deadline for IRP Update should only be set once the Commission has approved a final comprehensive IRP. Additionally,

³ S.C. Code Ann. § 58-37-40(C)(1).

⁴ *Id.*

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as discussed more fully in the Companies' letter filed on November 3, 2022, the Companies request that their next IRP Update not be due until at least 120 days from the later of (1) a final order on the 2023 IRPs; or (2) a final order on any modified IRP that the Commission may direct the Companies to prepare. IRP Updates require their own analyses, modeling input adjustments, and assumption changes, which can be substantial following a comprehensive IRP proceeding.

At the forum, counsel for the Southern Environmental Law Center ("SELC") suggested that, for future IRP Update proceedings, other parties be given an opportunity to file comments on IRP Updates at the same time as ORS following the utility filing its IRP Update. The Companies do not necessarily object to that proposal, but the Companies do reserve their right to challenge the extent to which the Commission relies upon the comments of other parties in its decision-making on an IRP Update in light of the very limited process spelled out in S.C. Code Ann. § 58-37-40(D)(2).

For IRP Update proceedings, Act 62 sets forth a very narrow proceeding in which (1) the utility files its IRP Update to base planning assumptions of its most recently accepted IRP; (2) the ORS reviews the IRP Update and files a report regarding its reasonableness; and (3) the Commission accepts or directs changes to the IRP Update after reviewing the IRP Update and the ORS report.⁵ This is a very straightforward, limited process that does not even provide for input by other parties, nor for the Commission's decision to be influenced or informed by the input of other parties. For these reasons, the Companies believe that reliance upon other parties' comments in the Commission's decision-making would be inappropriate, but also that the timing of when other parties may file comments in an IRP Update proceeding is—for these reasons—relatively immaterial. The Companies believe that this revised process would mean (1) the utility files its IRP Update, (2) ORS and other parties file comments on the IRP Update, and then (3) the utility files a response to those comments ahead of a Commission decision.

The Companies appreciate the Clerk's engagement with parties and this opportunity to share their perspective on the IRP procedural schedules.

Kind regards,



Sam Wellborn

cc: parties of record (via electronic mail)

⁵ S.C. Code Ann. § 58-37-40(D)(2).